

Governance

ADE Charter Schools Office

Presented by:

Freddie Scott, Operations Manager

April 8, 2017



History of Charter Schools

1970s: New England educator, Ray Budde, suggests that groups of teachers be given contracts or "charters" by their local school boards to explore new approaches.

1980s: Albert Shanker, former president of the American Federation for Teachers, begins talking about teacher-led laboratories of reform that experiment with new instructional practice, are subjected to rigorous evaluation and, if successful, serve as models for other public schools.

1991: Minnesota passes the nation's first charter school law with slim margins.

1992: California passes charter school legislation.

AGENDA

- *The Application and Governance*
- *Board Governance Highlights*
- *Board Assessments*

- *Legal Issues*
- *Waivers*
- *Q & A*

The Application and Governance

- ***Section C.2 (p.6): “Narrative Description of the Proposed Charter School***

Public School Board Governance Highlights

- *Powers and Duties*
- *Board Meetings*
- *Ethical Requirements*
- *Public Accountability and Professional Development*

Powers and Duties

- **Ark. Code Ann. § 6-13-620, *Powers and Duties of School Boards***
- **Ten broad, primary duties**
- **One “catch-all” duty – “do all other things necessary and lawful for the conduct of efficient free public schools in the school district.”**

Powers and Duties

- **Ark. Code Ann. § 6-13-620, *Powers and Duties of School Boards***
- **broad, primary duties**
 1. **Attend meetings;**
 2. **Determine mission/ direction of district;**
 3. ***Adhere (Obey) state and federal laws;***
 4. **Enact, enforce, and obey school district policies;**
 5. **Employ staff (including hiring and evaluation of superintendent);**

Powers and Duties

- **Ark. Code Ann. § 6-13-620, *Powers and Duties of School Boards***
- **broad, primary duties**
 6. **Understand and oversee finances;**
 7. **Ensure that the school district has necessary and sufficient facilities;**
 8. **Approve the selection of curriculum consistent with State Board of Education requirements;**
 9. **Visit school districts and classrooms;**
 10. **Obtain training and professional development.**

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - **Monthly during school term;**
 - **On call of the president;**
 - **On call of the secretary;**
 - **On call of any three board members;**
 - **When required to meet by lawful, verified written petition.**

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - **Requests to be placed on the agenda**
 - **Superintendent notification to president**
 - **Cannot be granted if it would prejudice a student or personnel matter, or is in conflict with school district policy or law.**

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - Regular and special meetings must take place after 5:00 p.m. if they involve personnel or personnel policies;
 - Publish date, time and place of regular meetings on website 10 days in advance;
 - Publish date, time and place of rescheduled meetings on website 24 hours in advance.

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - **Secretary must:**
 - **Keep minutes;**
 - **Take attendance;**
 - **Record outcome of vote;**
 - **Keep copy of all budgets and county treasurer reports on the financial affairs of the district.**

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - General rule is that board members have to be physically present to vote, or count toward a quorum. (there are exceptions).
 - Majority of a quorum voting affirmatively is required for the passage of any motion or resolution.
 - Any member who abstains shall be counted as having voted against the motion or resolution.

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - A member with a conflict may leave the meeting. They cannot be counted in the board's vote and they cannot be used to establish a quorum.
 - A quorum = a majority of the membership of the board of directors.
 - A quorum must be *physically present* for the board to enter an executive session.

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-13-619, *School Board Meetings***
 - Can adopt a policy for remote attendance.
 - Have to be able to verify the member.
 - Have to make sure everyone can hear each other.
 - Member attending remotely cannot attend an executive session or closed hearing.
 - Cannot vote on a matter that was the subject of an executive session or closed hearing.
 - Counted 3 times a year to establish a quorum.

Synopsis of Laws and Rules

- **Ark. Code Ann. § 6-24-101 et seq.,
*Ethical Requirements***
- **Cannot use, or attempt to use your official position to secure unwarranted privileges or exemptions for yourself or others.**
- **Cannot disclose confidential information.**
- **No kickbacks or gratuities.**

Ethical Prohibitions

Rules Governing Ethical Guidelines

4.01: “No board member, administrator, or employee of a public educational entity shall knowingly use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.”

School cannot contract with:

- School employees
- Administrators or their family members
- Board members or their family members

Ark. Code Ann. § 6-24-101 et seq.

Public School Board Assessments

- *Unannounced Visit*
- *Announced Visit*
- *Evaluation Tool*
- *Professional Development*

Board Meeting Assessment Tool

Date of Board Meeting:			
Location:			
Reviewer:			
	Yes	No	Comments
NON-NEGOTIABLES			
The meeting was properly advertised as a public meeting including access via technology services (teleconference, video conference, etc.)			
# Members Present A quorum was established.			
The meeting started on time			
The Board Packet was organized and provided to all meeting participants in a timely manner			
The agenda is clear and covered critical performance areas			
Meeting facilitation protocol: motions, seconds, and voting, etc. are evident. Action items were taken with a quorum present.			
Board reviewed and approved/accepted the key financial reports and addressed financial challenges. (See "II. Financial Reporting Review" next page)			
Board reviewed student and/or school academic achievement and plan to address challenges?			
Board reviewed and addressed the school's operational performance and addressed challenges?			
Board discussed, reviewed, revised or adopted policies.			
Appropriate board and staff assignments were made			
Next steps clearly established			
Board adequately handled public comments			
Meeting ran on time			
Board closed the meeting for executive session a specific legal purpose.			
CRITICAL FOR CONSIDERATION			
Board reviewed and/or are familiar with the charter contract			
Board reviewed and/ or approved contracts for staff or vendors.			
Board engaged in training/professional development or strategic planning.			
Diversity of board composition: (academics, finance, operations, parent, community, etc.)			
Board reviewed/discussed: Annual Report, Charter Renewal Application, Amendment Requests, School Improvement Plan, Fund Development, i.e., Line of Credit, Annual Audit, etc. School Leader's Performance Evaluation, Board's Self Evaluation			
Board members visited schools and classrooms			
Board members understand the school's mission, vision			
Comments/Observations/ Follow Up			

Board Professional Development

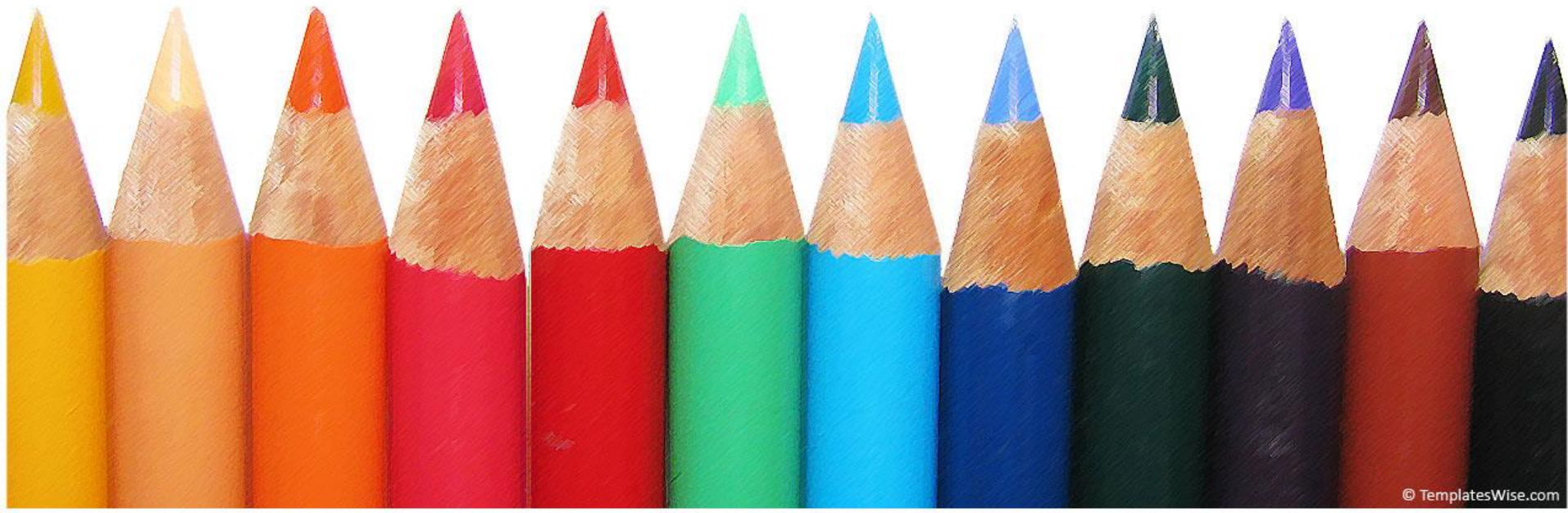
- Arkansas School Board Members are required to obtain a minimum of 6 hours of professional development each year. This required training is based upon the Rules Governing Arkansas School Board Member Training.
- New board members are required to obtain nine (9) hours the first year.
- All professional development providers and programs must be approved by the Arkansas Department of Education at least thirty (30) days before a program is offered as professional development credit. Professional Development shall adhere to the Rules and standards established by the State Board of Education.

Legal and Waivers

ADE

Presented by:

Jennifer Davis, Attorney Specialist



Synopsis of Laws and Rules

- **Requirements for school board members (Ark. Code Ann. § 6-24-105)**
- **Requirements for administrators (Ark. Code Ann. § 6-24-106)**
- **Requirements for school district employees (Ark. Code Ann. § 6-24-107)**
- **Penalties: restitution, fine of up to \$10,000, prison for up to 5 years.**

Synopsis of Laws and Rules

- **Requirements for school board members (Ark. Code Ann. § 6-24-105)**
 - **General Prohibitions**
 - **Employment of Family Members**
 - **Exceptions**
 - **Records**
 - **Providing False or Incomplete Information**

Arkansas Freedom of Information Act

- **What *is* covered:**

- Public records;
- Public meetings.

- **What *is not* covered:**

- Public participation at meetings;
- Creation of records in response;
- Time period for retention.

Arkansas Freedom of Information Act

- **Public Records**

- **We provide requested public records unless they are exempt from disclosure.**
- **We provide records immediately unless they are in active use or storage, in which case we have three working days to provide the records.**

Arkansas Freedom of Information Act

- **Public Records Include:**

- Writing, sounds, electronic information, or videos that are kept by the public entity; and
- That constitute a record of the performance or lack of performance of official functions.
- Whether something is a public record depends upon its *content*, not the medium in which the record is kept.
- FERPA records are exempt.
- Special rules apply to personnel records and employee evaluation records.

Legal Issues: Three Key Principles

Be careful what you promise.




Ask not, receive not.



Ignorance of the law is no excuse.


Be careful what you promise.



**ARKANSAS
DEPARTMENT
OF EDUCATION**

**Open-Enrollment Public Charter School
New Application**

Deadline for Submission: August 31



Charter School: _____

Date Submitted: _____

Date Approved: _____

Arkansas Department of Education
Charter School Office
Four Capitol Mall, Room 105-C
Little Rock, AR 72201
501.683.5313

Charter Amendments

“Any revision or amendment of the charter for a public charter school may be made only with the approval of the authorizer.”

Ark. Code Ann. § 6-23-104 (b).



Charter Compliance

“The authorizer may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if ... the persons operating the public charter school ... [c]ommitted a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter.”

Ark. Code Ann. § 6-23-105.



Ignorance of the law is no excuse.

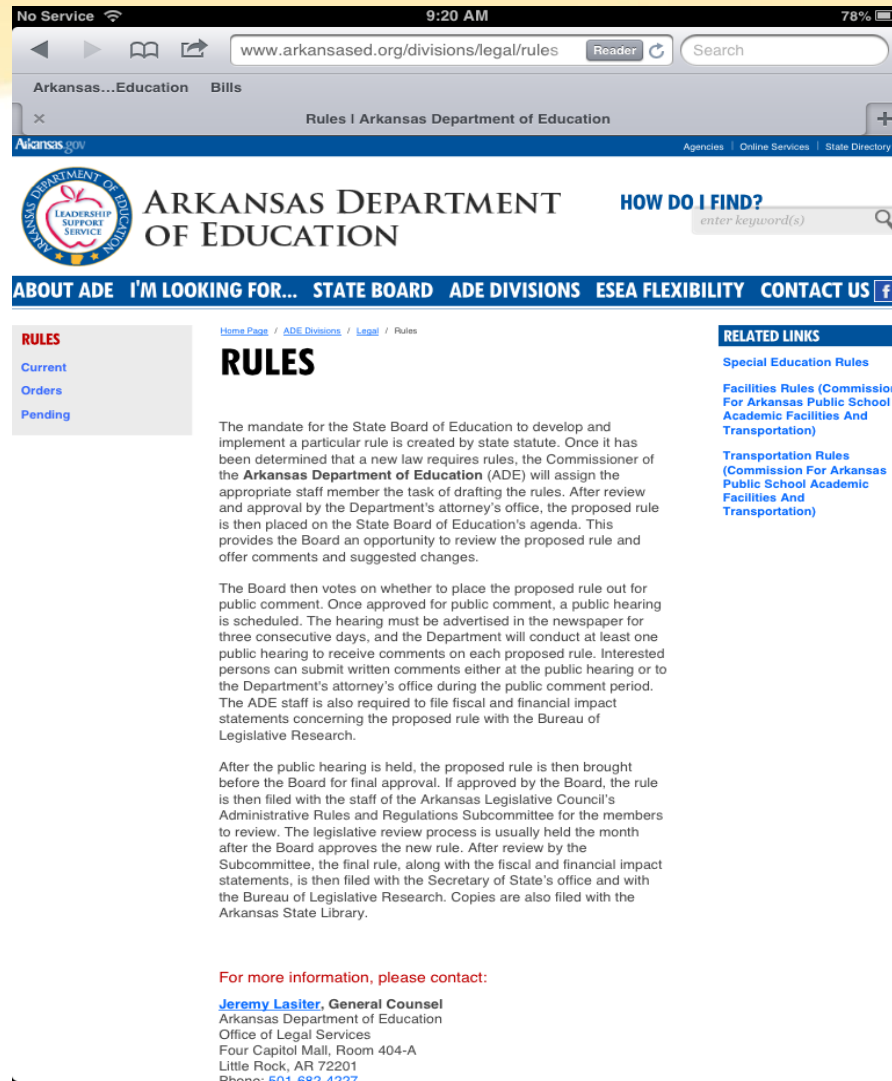


Ignorance of the law is no excuse.



www.arkleg.state.ar.us

Ignorance of the law is no excuse.



The screenshot shows a mobile browser interface with the URL www.arkansased.org/divisions/legal/rules. The page header includes the Arkansas Department of Education logo and navigation links. The main content area is titled "RULES" and contains the following text:

The mandate for the State Board of Education to develop and implement a particular rule is created by state statute. Once it has been determined that a new law requires rules, the Commissioner of the **Arkansas Department of Education (ADE)** will assign the appropriate staff member the task of drafting the rules. After review and approval by the Department's attorney's office, the proposed rule is then placed on the State Board of Education's agenda. This provides the Board an opportunity to review the proposed rule and offer comments and suggested changes.

The Board then votes on whether to place the proposed rule out for public comment. Once approved for public comment, a public hearing is scheduled. The hearing must be advertised in the newspaper for three consecutive days, and the Department will conduct at least one public hearing to receive comments on each proposed rule. Interested persons can submit written comments either at the public hearing or to the Department's attorney's office during the public comment period. The ADE staff is also required to file fiscal and financial impact statements concerning the proposed rule with the Bureau of Legislative Research.

After the public hearing is held, the proposed rule is then brought before the Board for final approval. If approved by the Board, the rule is then filed with the staff of the Arkansas Legislative Council's Administrative Rules and Regulations Subcommittee for the members to review. The legislative review process is usually held the month after the Board approves the new rule. After review by the Subcommittee, the final rule, along with the fiscal and financial impact statements, is then filed with the Secretary of State's office and with the Bureau of Legislative Research. Copies are also filed with the Arkansas State Library.

For more information, please contact:
Jeremy Lasiter, General Counsel
Arkansas Department of Education
Office of Legal Services
Four Capitol Mall, Room 404-A
Little Rock, AR 72201
Phone: 501.682.4227

The right sidebar contains a "RELATED LINKS" section with the following links:

- [Special Education Rules](#)
- [Facilities Rules \(Commission For Arkansas Public School Academic Facilities And Transportation\)](#)
- [Transportation Rules \(Commission For Arkansas Public School Academic Facilities And Transportation\)](#)

Laws to Obey

- Ethics

Ark. Code Ann. § 6-24-101 et seq.

- Finance & Budget

Ark. Code Ann. § 6-20-2201 et seq.

- Purchasing & Bidding

Ark. Code Ann. § 6-21-301 et seq.

- Annual Audits

Ark. Code Ann. §§ 6-1-101, 6-23-403

- Reports



Laws to Obey

- Annual Progress Report

Ark. Code Ann. § 6-23-107

Ark. Code Ann. § 6-23-303 (4)

- Facilities Inspection

Public Charter School Rules § 6.25

- Debt Review & Approval

Ark. Code Ann. § 6-23-401 (a)(5)

- Lease Review & Approval

Ark. Code Ann. § 6-23-302 (5)



Laws to Obey

“No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions ”

Ark. Code Ann. § 6-23-503 (b)(1)



Ask Not, Receive Not.

“ The application shall ... [l]ist the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted.”

Ark. Code Ann. § 6-23-302 (c)(4).



Ask Not, Receive Not.

Laws outside of Title 6 of the Arkansas Code



Laws that specify charter schools



Ethics laws regarding nepotism and self-dealing

Ask Not, Receive Not.

Ark. Code Ann. § 6-23-401 (b):

- Monitoring Compliance
- Special Education Programs
- Health & Safety Codes
- Criminal Background Checks

(Ark. Code Ann. § 6-17-411 & 414)

Ask Not, Receive Not.

Ark. Code Ann. § 6-23-401 (b):

- High School Graduation Requirements
- Public School Accountability

Application Issues:

- Desegregation Analysis
- 501(c)(3) Status



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